

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF WATER QUALITY
APRIL 2, 2019**

ITEM 10

SUBJECT

CONSIDERATION OF ADOPTION OF PROPOSED FINAL AMENDMENTS TO BOTH THE WATER QUALITY CONTROL PLAN FOR OCEAN WATERS OF CALIFORNIA (OCEAN PLAN), AND THE FORTHCOMING WATER QUALITY CONTROL PLAN FOR INLAND SURFACE WATERS, ENCLOSED BAYS, AND ESTUARIES OF CALIFORNIA (ISWEBE PLAN) TO INCLUDE THE STATE WETLAND DEFINITION AND PROCEDURES FOR DISCHARGES OF DREDGED OR FILL MATERIAL TO WATERS OF THE STATE (PROPOSED AMENDMENTS), AND THE PROPOSED FINAL STAFF REPORT INCLUDING THE SUBSTITUTE ENVIRONMENTAL DOCUMENTATION (PROPOSED FINAL STAFF REPORT).

DISCUSSION

State Water Resources Control Board (State Water Board) staff proposes to include the Proposed Amendments to the Ocean Plan and the forthcoming ISWEBE Plan (the ISWEBE and the Ocean Plan Amendments are hereafter collectively referred to as the Procedures). The Procedures, formerly known as the *Wetland Area Protection Policy*, have been renamed in order to communicate that the Procedures apply to all discharges of dredged or fill material to waters of the state, not just wetlands.

The Procedures consist of the following components: (1) a wetland definition; (2) a framework for determining if a feature that meets the wetland definition is a water of the state; (3) wetland delineation procedures; and (4) procedures for application submittal, and the review and approval of Water Quality Certifications, Waste Discharge Requirements, and waivers of Waste Discharge Requirements for dredge or fill activities. The Procedures would not apply to suction dredge mining activities for mineral recovery.

The State Water Board developed the Procedures to address several important issues. First, there is a need to strengthen protections for waters of the state that are no longer protected under the Clean Water Act (CWA) due to past U.S. Supreme Court decisions. Second, there is inconsistency across the Water Boards in regulating discharges of dredged or fill material into waters of the state, including wetlands. Third, current regulations have not been adequate to prevent losses in the quality and quantity of wetlands in California.

Stakeholder outreach was conducted throughout the development of the Procedures. Staff have met with various federal, state, and local agencies. Staff have also met with representatives from various stakeholder groups including environmental advocacy, business and industry, utility, transportation, and agriculture. In addition, the technical aspects of the Procedures, specifically the wetland definition and the wetland delineation procedures, were developed and recommended by a Technical Advisory Team that consisted of experts in the fields of wetland science and management. The wetland definition and delineation methods have been peer reviewed.

A Proposed Final Staff Report, including Substitute Environmental Documents (hereafter Staff Report) was prepared to accompany the Procedures. California Environmental Quality Act scoping meetings were held, and an initial study was released for public review in 2011. The Preliminary Draft Procedures (at the time called the *Wetland Area Protection Policy*) was released for informational purposes on January 28, 2013. During 2014 and 2015, State Water Board staff developed technical documents and conducted public outreach to further develop the Procedures. Between June and August of 2016, a 62-day initial comment period was held, and the State Water Board received 48 comment letters. A second comment period of 66 days was held on a revised draft of the Procedures between July and September of 2017. The State Water Board received 108 comment letters and 6,007 form letters during the 2017 public comment period.

On January 3, 2019, staff released the revised draft Procedures, Staff Report, and Response to Comments for public review. Public workshops were held on January 9, 2019 in San Diego, January 22, 2019 in Sacramento, and February 6, 2019 in Sacramento. During January and February, staff met extensively with stakeholders to draft clarifying language and identify stakeholders' proposed policy changes. Staff released the proposed clarifications and stakeholders' proposed policy changes to the public on February 22, 2019. The State Water Board held a workshop on March 5, 2019 to discuss the clarifying language and stakeholders' proposed policy changes.

POLICY ISSUE

Should the State Water Board adopt the Procedures and approve the Staff Report?

FISCAL IMPACT

State Water Board and Regional Water Board staff work associated with or resulting from this action will be addressed with existing and future budgeted resources.

REGIONAL BOARD IMPACT

The Procedures will impact staff workload at the Regional Water Boards to varying degrees.

STAFF RECOMMENDATION

Staff recommends that the State Water Board adopt the Procedures and approve the Staff Report.

<p>State Water Board action on this item will assist the Water Boards in reaching Goals 1 and 6 of the Strategic Plan Update: 2008-2012. In particular, approval of this item will assist in fulfilling Action 1.1.5: by February 2019, identify, document, and begin implementation of strategies with broad application that can be applied through policies and permits to restore water quality; Objective 1.3: take appropriate enforcement actions and innovative approaches as needed to protect and restore all surface waters; Objective 6.1: Target consistency improvements in process and policy for Water Board enforcement activities to promote compliance; and Objective 6.2: Target consistency improvements in program delivery identified through past input, and solicit input to identify consistency issues as they arise.</p>
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